

COUNTY OF SUFFOLK



FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ OCT 28 2016 ★
LONG ISLAND OFFICE

SUFFOLK COUNTY CLERK'S OFFICE

JUDITH A. PASCALE
SUFFOLK COUNTY CLERK
WWW.SUFFOLKCOUNTYNY.GOV
Court Actions
631-852-2000 ext. 852

Date: 10/24/16

JS / STL

16CV5803

To whom it may concern:

Please find a Certified Copy of our Clerk's Minutes for the E-filed Supreme Court case, Index #16cv345/16, along with a copy of the Notice of Removal.

Since the above mentioned case is E-filed, there are no hard copies of the documents.

If you have any questions, please call the number at the top of this page.

Thank you,

Court Actions



COUNTY CLERK'S OFFICE
STATE OF NEW YORK
COUNTY OF SUFFOLK

I, JUDITH A. PASCALE, Clerk of the County of Suffolk and the Court
of Record thereof do hereby certify that I have compared the annexed with the original
CLERKS MINUTES

filed in my office on **10/20/2016**

and, that the same is a true copy thereof, and of the whole of such original.

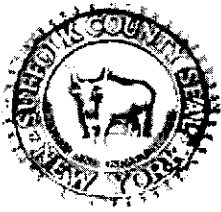
In Testimony Whereof, I have hereunto set my hand and affixed the seal of said County
and Court this **10/24/2016**.

SUFFOLK COUNTY CLERK

A handwritten signature in cursive script that reads "Judith A. Pascale".

JUDITH A. PASCALE

SEAL



Civil Court Minutes Report

Index #: 16 608345

Print Date: 10/24/2016

Court: S

Case Type: E

Application Date:

Plaintiff(s)

FORMAN, ANDREA

Defendant(s):

PYOD, LLC

RESURGENT CAPITAL SERVICES L.P.

SHERMAN FINANCIAL GROUP, LLC

Minutes :

<u>Seq #</u>	<u>Process Date</u>	<u>Type</u>	<u>Minutes</u>
1	6/2/2016 12:00	SUMMONS W/NOTICE	
2	9/20/2016 12:00	AFFIRMATION/AFFIDAVIT OF SERVICE	
3	9/20/2016 12:00	AFFIRMATION/AFFIDAVIT OF SERVICE	
4	9/20/2016 12:00	AFFIRMATION/AFFIDAVIT OF SERVICE	
5	10/10/2016 12:00	NOTICE OF APPEARANCE (PRE RJ)	
6	10/20/2016 12:00	NOTICE OF REMOVAL / REMAND (PRE RJ) TO EASTERN DIST COURT	

Total Minute Records :6

Notations :

<u>Minute</u>	<u>Seq</u>	<u>Liber</u>	<u>Page</u>	<u>LP No</u>	<u>Notation</u>
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Total Notation Records :0

Tax Map Info :

<u>Minute</u>	<u>Seq</u>	<u>Tax Map Number</u>
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Total Tax Map Records :0

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK**

ANDREA FORMAN, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

PYOD, LLC, RESURGENT CAPITAL
SERVICES L.P., AND SHERMAN
FINANCIAL GROUP, LLC,

Defendants.

**Notice of Removal to United States District
Court, Eastern District of New York**

Index No.: 608345/2016

TO: Supreme Court of State of New York
Suffolk County
210 Center Drive
Riverhead, NY 11901

SIR/MADAM:

PLEASE TAKE NOTICE that on October 20, 2016, Defendants PYOD, LLC, Resurgent Capital Services, L.P., and Sherman Financial Group, LLC ("Defendants") electronically filed a Notice of Removal in the United States District Court for the Eastern District of New York to remove the above-captioned action from the Supreme Court of the State of New York, Suffolk County, to the United States District Court for the Eastern District of New York; and

PLEASE TAKE FURTHER NOTICE that this Notice of that filing is given pursuant to the provisions of 28 U.S.C. § 1446(d), as amended. Accompanying this Notice as **Exhibit A**

is a copy of the Notice of Removal so filed.

GORDON & REES LLP
*Attorneys for Defendants PYOD, LLC, Resurgent
Capital Services, L.P., and
Sherman Financial Group, LLC*

By: 

YEVGENY ROYMISHER

18 Columbia Turnpike, Suite 220
Florham Park, New Jersey 07932
Tel: (973) 549-2500
Fax: (973) 377-1911

Dated: Florham Park, New Jersey
October 20, 2016

TO: Mitchell L. Pashkin, Esq.
775 Park Avenue, Ste. 255
Huntington, NY 11743
Attorneys for Plaintiff Andrea Forman

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

ANDREA FORMAN, on behalf of herself and
all others similarly situated,

Plaintiff,

v.

PYOD, LLC, RESURGENT CAPITAL
SERVICES L.P., AND SHERMAN
FINANCIAL GROUP, LLC,

Defendants.

Civil Action No.:

NOTICE OF REMOVAL

Defendants PYOD, LLC, Resurgent Capital Services, L.P., and Sherman Financial Group, LLC ("Defendants"), by and through their attorneys, Gordon & Rees LLP, respectfully says:

1. Plaintiff Andrea Forman ("Plaintiff") commenced the above-captioned action on or about June 1, 2016, by filing a Summons with Notice in the Supreme Court of the State of New York, Suffolk County, captioned *Andrea Forman, on behalf of herself and all others similarly situated v. PYOD, LLC, Resurgent Capital Services, L.P., and Sherman Financial Group, LLC*, (the "Summons with Notice"). Said action is now pending in that Court.

2. The Summons with Notice was served upon Defendant by mail service upon the Defendants' registered agent on or about September 22, 2016.

3. A copy of the Summons with Notice is annexed hereto as Exhibit A.

4. The above-captioned action is a civil case over which this Court has jurisdiction pursuant to 28 U.S.C. § 1331, in that:

a. The above-captioned action is a civil action arising under federal laws;

- b. Plaintiff alleges that Defendant violated multiple provisions of the Fair Debt Collection Practices Act, 28 U.S.C. § 1692 *et seq.*;
- c. Therefore, this Court has federal question jurisdiction over the above-captioned action pursuant to 28 U.S.C. § 1331, which may properly be removed to this Court pursuant to 28 U.S.C. § 1441.

5. This Notice of Removal is filed within the time provided by 28 U.S.C. § 1446(b) and the Federal Rules of Civil Procedure.

6. Upon the filing of this Notice of Removal, Defendants shall give written notice thereof to Mitchel S. Pashkin, Esq., counsel for Plaintiff, and Defendants shall file copies of said Notice and Notice of Filing of Removal with the Court Clerk, Supreme Court of the State of New York, Suffolk County.

7. By filing this notice, Defendants do not waive any defenses which may be made available to them, specifically including, but not limited to, improper service and the absence of venue in this Court or in the Court from which this action has been removed.

WHEREFORE, Defendants respectfully request² that the Court remove the above-captioned action now pending against it in the Supreme Court of the State of New York, Suffolk County, to the United States District Court for the Eastern District of New York, wherein it shall proceed as an action originally commenced therein.

GORDON & REES LLP
*Attorneys for Defendants PYOD, LLC, Resurgent
Capital Services, L.P., and
Sherman Financial Group, LLC*

By: _____

YEVGENY ROYMISHER

18 Columbia Turnpike, Suite 220
Florham Park, New Jersey 07932
Tel: (973) 549-2500
Fax: (973) 377-1911

Dated: Florham Park, New Jersey
October 19, 2016

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

ANDREA FORMAN,
ON BEHALF OF HERSELF AND
ALL OTHERS SIMILIARLY SITUATED,

Plaintiff,

-against-

PYOD, LLC, RESURGENT CAPITAL SERVICES L.P.,
AND SHERMAN FINANCIAL GROUP, LLC,

Defendants.

INDEX NO.

FILING DATE: 06/01/16

SUMMONS WITH NOTICE

Plaintiff designates
Suffolk County
as the place of trial

The basis of the venue is
Plaintiff's designation and residence

To the above named Defendants:

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or if the complaint is not served with the summons, to serve a notice of appearance, on the plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if the summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the sum of \$505,000.00 with interest thereon from the 5th day of June 2015, together with the costs of this action and reasonable attorney's fees.

TAKE NOTICE that the object of this action and the relief sought is to recover damages for violations of the Fair Debt Collection practices Act, 15 USC 1692, et. seq. and NY GBL 349 and that in case of your failure to answer, judgment will be taken against you for the sum of \$505,000.00 with interest thereon from the 5th day of June 2015, together with the costs of this action and reasonable attorney's fees.

Dated: June 1, 2016
Huntington, NY

/s/ _____
Mitchell L. Pashkin
Attorney For Plaintiff
775 Park Avenue, Ste. 255
Huntington, NY 11743

Index No.

ANDREA FORMAN,
ON BEHALF OF HERSELF AND
ALL OTHERS SIMILIARLY SITUATED,

Plaintiff(s) ,

-vs-

PYOD, LLC, RESURGENT CAPITAL SERVICES L.P.,
AND SHERMAN FINANCIAL GROUP, LLC,

Defendants.

SUMMONS WITH NOTICE

Mitchell L. Pashkin certifies that, to the best of his knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the presentation of the annexed paper(s) or the contentions therein are not frivolous as defined in 22 NYCRR 130-1.1.(c).

/s/

Mitchell L. Pashkin
Attorney For Plaintiff
775 Park Avenue, Ste. 255
Huntington, NY 11743
Tel.: 631.335.1107
Fax.: 631.824-9328
mpash@verizon.net

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

ANDREA FORMAN

(b) County of Residence of First Listed Plaintiff Suffolk
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mitchell L. Pashkin
775 Park Avenue, Ste 255, Huntington, NY 11743, 631-335-1107

DEFENDANTS

PYOD, LLC, RESURGENT CAPITAL SERVICES L.P., AND SHERMA

County of Residence of First Listed Defendant Greenville, SC
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Gordon & Rees LLP, 18 Columbia Turnpike, Suite 220, Florham Park, NJ, 973-549-2500

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 851 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(e)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 218 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Real Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1446(b)

Brief description of cause:
Violations of the Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING OFF

JUDGE

MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, _____, counsel for _____, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☐ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☐ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? _____
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? _____

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? _____

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes

☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes

(If yes, please explain)

☒ No

I certify the accuracy of all information provided above.

Signature: _____